

SENATE BILL NO. 477

INTRODUCED BY J. O'NEIL

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A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE AUTHORITY TO USE THE POWER OF EMINENT DOMAIN FOR URBAN RENEWAL PURPOSES; AMENDING SECTIONS 7-15-4258 AND 70-30-102, MCA; REPEALING SECTIONS 7-15-4204 AND 7-15-4259, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-15-4258, MCA, is amended to read:

**"7-15-4258. Acquisition and administration of real and personal property.** (1) A municipality may:

- (a) acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain pursuant to Title 70, chapter 30; or otherwise any real property and personal property that may be necessary for the administration of the provisions contained in part 43 and this part, together with any improvements on the real property;
- (b) hold, improve, clear, or prepare for redevelopment property acquired pursuant to subsection (1)(a);
- (c) dispose of real or personal property;
- (d) insure or provide for the insurance of real or personal property or the operations of the municipality against any risks or hazards, including the power to pay premiums on any insurance; and
- (e) enter into a development agreement with the owner of real property within an urban renewal area and undertake activities, including the acquisition, removal, or demolition of structures, improvements, or personal property located on the real property, to prepare the property for redevelopment.

(2) A development agreement entered into in accordance with subsection (1)(e) must contain provisions obligating the owner to redevelop the real property for a specified use consistent with the urban renewal plan and offering recourse to the municipality if the redevelopment is not completed as determined by the local governing body. The development agreement may not constitute the acquisition of an interest in real property by the municipality within the meaning of 7-15-4262 or 7-15-4263.

(3) However, statutory provisions with respect to the acquisition, clearance, or disposition of property by public bodies may not restrict a municipality in the exercise of functions with respect to an urban renewal project.



1 (4) A municipality may not acquire real property for an urban renewal project or enter into a development  
 2 agreement, as provided in subsection (1)(e), unless the local governing body has approved the urban renewal  
 3 project plan in accordance with 7-15-4216(2) and 7-15-4217."

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5 **Section 2.** Section 70-30-102, MCA, is amended to read:

6 **"70-30-102. Public uses enumerated.** Subject to the provisions of this chapter, the right of eminent  
 7 domain may be exercised for the following public uses:

8 (1) all public uses authorized by the government of the United States;

9 (2) public buildings and grounds for the use of the state and all other public uses authorized by the  
 10 legislature of the state;

11 (3) public buildings and grounds for the use of any county, city, town, or school district;

12 (4) canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the  
 13 inhabitants of any county, city, or town;

14 (5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen,  
 15 or straighten stream channels;

16 (6) water and water supply systems as provided in Title 7, chapter 13, part 44;

17 (7) roads, streets, alleys, controlled-access facilities, and all other public uses for the benefit of a county,  
 18 city, or town or the inhabitants of a county, city, or town;

19 (8) acquisition of road-building material as provided in 7-14-2123;

20 (9) stock lanes as provided in 7-14-2621;

21 (10) parking areas as provided in 7-14-4501 and 7-14-4622;

22 (11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;

23 ~~(12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43;~~

24 ~~(13)~~(12) housing authority purposes as provided in Title 7, chapter 15, part 44;

25 ~~(14)~~(13) county recreational and cultural purposes as provided in 7-16-2105;

26 ~~(15)~~(14) city or town athletic fields and civic stadiums as provided in 7-16-4106;

27 ~~(16)~~(15) county cemetery purposes as provided in 7-35-2201, cemetery association purposes as provided  
 28 in 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;

29 ~~(17)~~(16) preservation of historical or archaeological sites as provided in 23-1-102 and 87-1-209(2);

30 ~~(18)~~(17) public assistance purposes as provided in 53-2-201;

1           ~~(19)~~(18) highway purposes as provided in 60-4-103 and 60-4-104;

2           ~~(20)~~(19) common carrier pipelines as provided in 69-13-104;

3           ~~(21)~~(20) water supply, water transportation, and water treatment systems as provided in 75-6-313;

4           ~~(22)~~(21) mitigation of the release or threatened release of a hazardous or deleterious substance as

5 provided in 75-10-720;

6           ~~(23)~~(22) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;

7           ~~(24)~~(23) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle

8 wrecking facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;

9           ~~(25)~~(24) water conservation and flood control projects as provided in 76-5-1108;

10          ~~(26)~~(25) acquisition of natural areas as provided in 76-12-108;

11          ~~(27)~~(26) acquisition of water rights for the natural flow of water as provided in 85-1-204;

12          ~~(28)~~(27) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;

13          ~~(29)~~(28) conservancy district purposes as provided in 85-9-410;

14          ~~(30)~~(29) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads,

15 and railroads;

16          ~~(31)~~(30) canals, ditches, flumes, aqueducts, and pipes for:

17           (a) supplying mines, mills, and smelters for the reduction of ores;

18           (b) supplying farming neighborhoods with water and drainage;

19           (c) reclaiming lands; and

20           (d) floating logs and lumber on streams that are not navigable;

21          ~~(32)~~(31) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must

22 possess a public use demonstrable to the district court as the highest and best use of the land.

23          ~~(33)~~(32) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of

24 ores;

25          ~~(34)~~(33) outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from

26 mines, mills, and smelters for the reduction of ores;

27          ~~(35)~~(34) an occupancy in common by the owners or the possessors of different mines of any place for

28 the flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction

29 of ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or smelters.

30 However, the reservoir sites must possess a public use demonstrable to the district court as the highest and best

1 use of the land.

2 ~~(36)~~(35) private roads leading from highways to residences or farms;

3 ~~(37)~~(36) telephone or electrical energy lines;

4 ~~(38)~~(37) telegraph lines;

5 ~~(39)~~(38) sewerage of any:

6 (a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or  
7 unincorporated;

8 (b) settlement consisting of not less than 10 families; or

9 (c) public buildings belonging to the state or to any college or university;

10 ~~(40)~~(39) tramway lines;

11 ~~(41)~~(40) logging railways;

12 ~~(42)~~(41) temporary logging roads and banking grounds for the transportation of logs and timber products  
13 to public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However,  
14 the grounds of state institutions may not be used for this purpose.

15 ~~(43)~~(42) underground reservoirs suitable for storage of natural gas;

16 ~~(44)~~(43) projects to mine and extract ores, metals, or minerals owned by the condemnor located beneath  
17 or upon the surface of property where the title to the surface vests in others. However, the use of the surface of  
18 property for strip mining or open-pit mining of coal (i.e., any mining method or process in which the strata or  
19 overburden is removed or displaced in order to extract the coal) is not a public use, and eminent domain may not  
20 be exercised for this purpose.

21 ~~(45)~~(44) projects to restore and reclaim lands that were strip mined or underground mined for coal and  
22 not reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse affects of strip or  
23 underground mining on those lands."

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25 NEW SECTION. **Section 3. Repealer.** Sections 7-15-4204 and 7-15-4259, MCA, are repealed.

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27 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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